

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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CRIMINAL PETITION No.7037 of 2015

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Between:

Dr.P.S.Gahalaut

..Petitioner/ accused No.1

And

The State of Andhra Pradesh,
Rep. by its Public Prosecutor
High Court, Hyderabad & another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 27-07-2015

SUBMITTED FOR APPROVAL:

**HONOURABLE Dr. JUSTICE B.SIVA SANKARA
RAO**

1. Whether Reporters of Local newspapers
Yes/No
may be allowed to see the Judgment?

2. Whether the copies of judgment may be
marked to Law Reporters/Journals

Yes/No

3. Whether Their Lordship wish to
see the fair copy of the Judgment?

Yes/No

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7037 of 2015

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ORDER :

This Criminal Petition is filed by the Petitioner/ accused No.1
under Section 482 Cr.P.C seeking to quash the order dated 17.06.2015

in C.C. No.735 of 2012 on the file of V Additional Judicial Magistrate of First Class, Tirupati, taken cognizance for the offence under the provisions of Section 6 and 31 of Factories Act.

2) Accused No.1 was permitted to represent through special vakalath holder by order of learned Magistrate in CrI.M.P. No.171 of 2012 dated 10.06.2013 the operative portion of which reads as follows:

The petition allowed and personal attendance of petitioner/ Accused No.1 is dispensed with and he is permitted to appear by his pleader, except on the date when this Court directs.

3) Learned counsel for the petitioner submitted that in the impugned docket order NBW was issued in the absence of A-1 saying in spite of directions he did not appear and filed adjournment application under Section 317 Cr.P.C. That there is no such written direction given by the Court and having already dispensed with the personal appearance of accused No.1 with permission to represent through special vakalath holder, issuing NBW pursuant to it is unsustainable.

4) The Accused No.2 appeared regularly is not in dispute.

5) Heard learned counsel for the petitioner/ accused No.1 as well as the State represented by learned Public Prosecutor including for the Inspector of Factories. Perused the material on record.

6) A perusal of the record would show that the impugned docket order no where mentioned even what is the earlier personal appearance date. In fact, under Section 317 Cr.P.C, that can be adjourned even for the special vakalath holder unable to attend while representing the accused No.1 invoking under Section 205 read with 317 Cr.P.C and no reasons assigned to dismiss the application for the absence to condone.

7) Having regard to the above, the impugned docket order is set aside and the petition is allowed directing the learned Magistrate that if the accused No.1 appears through special vakalath holder pursuant to

the order in CrI.M.P. No.171 of 2012 and files any application for recall of the NBW pending against him, the same shall be entertained and the warrants to be recalled with a specific direction for personal appearance of accused No.1 for the future dates as and when required, so to comply, failing which the learned Magistrate can take necessary action afresh.

8) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.27.07.2015
Knl

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date:27.07.2015

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